

Assembly Bill No. 2239

CHAPTER 352

An act to amend Section 6248 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 20, 2006. Filed with
Secretary of State September 20, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2239, Emmerson. Vehicles: sales and use taxes.

The Sales and Use Tax Law imposes a tax on the gross receipts from the storage, use, or other consumption in this state of tangible personal property. Under existing law, there is a presumption that a vehicle, vessel, or aircraft shipped or brought into this state within 12 months from the date of its purchase was purchased from a retailer for storage, use, or other consumption in this state, under specified circumstances, until June 30, 2007. On and after July 1, 2007, the rebuttable presumption applies within 90 days from the date of the vehicle, vessel, or aircraft purchase, under specified circumstances.

This bill would provide that the presumption may be controverted by documentary evidence, as specified, for a vehicle brought into this state for the exclusive purpose of warranty or repair service where the vehicle is in this state for that purpose for 30 days or less, as provided. This bill would require the owner of the vehicle to make statements specifying the date of travel to and from the warranty or repair facility, as provided.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 6248 of the Revenue and Taxation Code, as amended by Section 4 of Chapter 49 of the Statutes of 2006, is amended to read:

6248. (a) On and after the effective date of this section there shall be a rebuttable presumption that any vehicle, vessel, or aircraft bought outside of this state, and which is brought into California within 12 months from the date of its purchase, was acquired for storage, use, or other consumption in this state and is subject to use tax if any of the following occur:

(1) The vehicle, vessel, or aircraft was purchased by a California resident as defined in Section 516 of the Vehicle Code.

(2) In the case of a vehicle, the vehicle was subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code during the first 12 months of ownership.

(3) In the case of a vessel or aircraft, that vessel or aircraft was subject to property tax in this state during the first 12 months of ownership.

(4) The vehicle, vessel, or aircraft is used or stored in this state more than one-half of the time during the first 12 months of ownership.

(b) This presumption may be controverted by documentary evidence that the vehicle, vessel, or aircraft was purchased for use outside of this state during the first 12 months of ownership. This evidence may include, but is not limited to, evidence of registration of that vehicle, vessel, or aircraft, with the proper authority, outside of this state.

(c) This section does not apply to any vehicle, vessel, or aircraft used in interstate or foreign commerce pursuant to regulations prescribed by the board.

(d) The amendments made to this section by the act adding this subdivision do not apply to any vehicle, vessel, or aircraft that is either purchased, or is the subject of a binding purchase contract that is entered into, on or before the operative date of this subdivision.

(e) (1) Notwithstanding subdivision (a), aircraft or vessels brought into this state for the purpose of repair, retrofit, or modification shall not be deemed to be acquired for storage, use, or other consumption in this state.

(2) This subdivision does not apply if, during the period following the time the aircraft or vessel is brought into this state and ending when the repair, retrofit, or modification of the aircraft or vessel is complete, more than 25 hours of airtime in the case of an airplane or 25 hours of sailing time in the case of a vessel are logged on the aircraft or vessel by the registered owner of that aircraft or vessel or by an authorized agent operating the aircraft or vessel on behalf of the registered owner of the aircraft or vessel. The calculation of airtime or sailing time logged on the aircraft or vessel does not include airtime or sailing time following the completion of the repair, retrofit, or modification of the aircraft or vessel that is logged for the sole purpose of returning or delivering the aircraft or vessel to a point outside of this state.

(3) This subdivision applies to aircraft or vessels brought into this state for the purpose of repair, retrofit, or modification on or after the operative date of this subdivision.

(f) The presumption set forth in subdivision (a) may be controverted by documentary evidence that the vehicle was brought into this state for the exclusive purpose of warranty or repair service and was used or stored in this state for that purpose for 30 days or less. The 30-day period begins when the vehicle enters this state, includes any time of travel to and from the warranty or repair facility, and ends when the vehicle is returned to a point outside the state. The documentary evidence shall include a work order stating the dates that the vehicle is in the possession of the warranty or repair facility and a statement by the owner of the vehicle specifying dates of travel to and from the warranty or repair facility.

(g) The amendments made by Section 2 of Chapter 226 of the Statutes of 2004 adding this subdivision shall become operative on October 1, 2004.

(h) The Legislative Analyst's Office shall conduct a study of the economic impacts of the amendments made to this section by the act adding this subdivision, and shall report its findings to the Legislature on or before June 30, 2006.

(i) This section shall remain in effect only until and including June 30, 2007, and as of July 1, 2007, is repealed.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.